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October 21, 2021

ECF and E-Mail

Hon. Nancy Hershey Lord
U.S. Bankruptcy Court, EDNY
Conrad B. Duberstein Courthouse
271-C Cadman Plaza East - Suite 1595
Brooklyn, NY 11201-1800

In Re: Fierro et al. v. Yellen et al Adv. P. 1-18-01048 (NHL) and Zucaro et al. v. Yellen et al. Adv. P 1-18-01049 (NHL)

Dear Judge Lord:

We are counsel for defendants Richard L. Yellen & Associates, LLP, Richard L. Yellen, Esq. and Brendan Kombol, Esq. in the above-referenced adversary proceedings.

We have not seen an updated report from the Debtors' counsel regarding state court proceedings since September 13, 2021. Therefore, we submit this letter to advise the Court that on September 20, 2021, the Debtors, Mr. Fiero and the Estate of Luigi Fiero (by its Administrator, Denise Zucaro), filed a complaint in the New York State Supreme Court for Kings County against Richard L. Yellen & Associates, LLP, Richard L. Yellen, Esq. and Brendan Kombol, Esq., Monica E. Kipiniak, Esq., J.C. Ryan EBCO/H&G LLC and Dana F. Schnipper. A copy of the complaint is Exhibit A to this letter. On October 14, 2021, the Debtors/plaintiffs in the new state court action filed a request for a preliminary conference in that new action and at the top of page 2 of their request for judicial intervention (RJI) they confirm that the new state court action is related to the J.C. Ryan judgment litigation, which itself is still being litigated in J.C. Ryan v. Fiero et al., Index No.18549/2003 (the "JC Ryan Action"). A copy of the RJI is Exhibit B to this letter.

As the Court will see, the fraud and N.Y. Judiciary Law § 487 asserted in this new state court action are predicated on the same facts and prior state court proceedings, including in the JC Ryan Action, that are the predicate for the claims in the amended complaints in the above-referenced adversary proceedings. (*Compare* Ex. A with *e.g.*, Adv. P. 1-18-01048, Dkt. [32](#)). The filing of the new state court action shows that the Debtors wish to proceed with their fraud claims in state court and further supports granting defendants' motion to dismiss the claims in the above-referenced adversary proceedings. At minimum, the filing of the new action has

implications for this Court's next steps because of the potential for duplicative litigation and inconsistent rulings, and in light of this Court's prior rulings in terms of recognizing, for example, the state court's greater familiarity with its prior proceedings over the past, now, nearly two decades, and judicial economy. (See Case No. 14-41439, Dkt. [106](#) at pp. 6-7 (weighing factors favoring abstention and remand of the JC Ryan Action)).

We look forward to discussing this further to the extent the Court wishes to do so at the October 26, 2021, telephone conference.

Respectfully submitted,

DENLEA & CARTON LLP

/s/Steven R. Schoenfeld

cc All Counsel (Via ECF)